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opinion

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CONCORD, N.H.

Mrs. Agnes B. Crowell, Clerk
State Board of Registration in Medicine
61 South Spring Street
Concord, New Hampshire

Dear Mrs. Crowell:

As I agreed during our conference on September 15, 1958, I am setting forth below the proposed text of a new Rule 27 for the Board of Registration in Medicine:

"Personnel, whether trained as laboratory or medical technicians or otherwise, engaged in laboratories or assisting in any way with work in the administration of chemical substances for the production of anesthesia, radiology, Roentgenology, chemistry, hematology, serology, pathology, bacteriology, microbiology, toxicology, histology, cardiology, blood banking procedures, or other such studies or functions, shall not participate, assist, or in any other manner be engaged in the diagnosis or treatment of human disease unless such personnel are employed by and under the supervision of a responsible, properly qualified licensed physician, or are employees of a licensed hospital or infirmary."

You will recall that during our conference I expressed the opinion that this "rule" should be made a part of the substantive law of the State rather than an administrative rule of the Board. There is some doubt in my mind as to whether RSA 329:9, which authorizes the Board to enact rules and regulations, is sufficiently broad to authorize the Board to make a rule such as that quoted above which would have the effect of law.

If the Board decides that it wishes to have the text of this rule in this or some other form presented to the next session of the General Court in the form of a bill, we will be pleased to assist in any way possible.

Very truly yours,

George T. Ray, Jr.
Assistant Attorney General

GTR,Jr/m